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An Assessment of Liability Insurance in Selected Markets
March 18, 2005

Office of the Insurance Commissioner

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Table of Contents

Executive Summary

Directed by the 2004 Legislature and funded with a $200,000 budget proviso (Appendix A), the Office of the Insurance Commissioner (OIC) launched a project at mid-year to assess conditions in the general liability insurance markets in Washington. Anecdotal evidence indicated that business owners in three categories were experiencing problems with the availability and affordability of liability insurance. These three types of businesses were:

- Construction contractors
- Operators of adult family homes
- Providers of children's welfare services

Despite legislative hearings and work sessions, testimony and other sources of information, a clear and reliable snapshot of the liability insurance market in terms of coverage availability and affordability proved elusive.

Against this backdrop, the OIC set out to gauge the liability insurance market in these areas and to assist businesses and insurance agents and brokers navigate this difficult and often confusing marketplace. The OIC used a voluntary survey to gather information from agents, brokers, insurers and other stakeholders for each of the categories listed above.

Results were mixed, but generally speaking, the OIC determined that liability insurance is available to most businesses in the construction contractor and children's welfare services providers categories, but difficult to locate for operators of adult family homes. Affordability, however, is problematic in some segments of the construction industry as well as the adult family home sector.

Additionally, some contractors find that they don't qualify for coverage in the standard market, leaving no choice but other markets where coverage is restricted and expensive. Similarly, some adult family home operators who are unable to obtain coverage in regular markets must resort to more expensive coverage.

Medical malpractice insurance

Coincidentally, but in an unrelated development, the OIC has been involved in efforts to help physicians and other medical providers who were experiencing difficulties in locating and affording medical liability insurance. This report also will detail the OIC's efforts, assessment and related developments to help medical providers obtain medical liability insurance and to understand these markets. These efforts include:

- Establishing of a voluntary Market Assistance Plan (MAP) to assist physicians
- Requesting a "data call" from major writers of medical liability insurance to help assess the market

Since there are common elements and factors affecting all four of these areas of the insurance market (medical liability, contractors, adult family homes and providers of children’s welfare services), this report will discuss aspects of the liability market that apply to all four areas and also will break down our efforts and observations by specific type of business.

Background

During the past three years, Washington, along with the rest of the nation, experienced what is known in the insurance industry as a “hard market” for liability insurance. Historically, hard markets are cyclical in nature, occurring every decade or so and usually lasting between 18 months and three years. Previous hard markets struck the American economy in the mid-1970s, and again in the mid-1980s. The most recent hard market skipped the 1990s, appearing in early 2000 after a 15-year stretch of stable markets and low premiums.

When a hard market occurs, insurance becomes difficult to find as companies stop writing some types of coverage or abandon markets completely. And even when insurance can be found, it often is expensive to purchase. Premium increases of fivefold and greater are not unusual for some classes or sub-classes of the market. In addition to the soaring of premiums and the scarcity of coverage, cancellations and non-renewals become a common fact of life as the market struggles to adjust. So even if you happen to be fortunate enough to have insurance coverage, there is no guarantee that you’ll be able to keep it.

The narrower the market, the harder the hit

When a hard market cycle hits the economy, the most serious effects show up in the narrow sub-classes of the market – areas where even slight corrections in coverage availability and affordability have a volatile effect. Typically, these are markets where only a few companies are offering coverage, and products are limited. These sub-classes are too narrow or too specialized to absorb adverse effects.

Broader-based segments of the economy are better positioned to absorb alterations, and thus volatility isn’t as likely to hurt the market. (Auto and homeowner coverages are examples.) So, when natural selection thins the number of companies writing coverage in a crowded market, the effect isn’t as dramatic.

What happens when coverage can’t be found?

There are two categories of insurers offering coverage in the liability market. The first consists of insurers who are authorized by the Office of the Insurance Commissioner (OIC) to solicit and transact business in the state. Authorized companies are commonly referred to as “admitted” carriers. Admitted carriers have their rates approved by the OIC, and as a result, are interchangeably referred to as “regulated” carriers.

In addition to the “admitted” or “regulated” market, insurance also is written by companies that are not authorized or regulated by the OIC. These carriers are called “surplus lines” insurers. Although companies that offer surplus lines coverage are not regulated by the OIC, they must transact their business through an agent or broker who is licensed by the OIC. Furthermore, the coverage must not be available in the admitted market. As a result, surplus lines companies can charge what they want and underwrite a risk with very restrictive conditions, limitations and exclusions.

In the typical progression of a hard market, when admitted carriers have left a market because of profitability issues, insurers in the surplus lines market can usually be counted upon to offer coverage. But, affordability then becomes a significant issue since rates and premiums in the surplus lines market are not encumbered by the OIC's regulatory process.

So, who has suffered most during the current hard market

This report will focus on four primary business segments or industries that have been exposed to the harsh realities of a hard market. They are:

- Physicians and other medical providers (medical malpractice insurance)
- Construction contractors (general liability)
- Operators of adult family homes (general liability)
- Children's welfare services providers (general liability)

Root causes

Although unique circumstances and conditions in each specific industry can be argued as having a major effect on the hard market, a combination of certain factors apply to all four. These common factors are:

- **Underwriting**: For years, insurers competed on price to build market share, and as a result underwriting principles suffered. Today, tougher underwriting and pricing dictate the market.

- **Returns on investment portfolios**: Insurance premiums have never covered the total cost of claims. Insurance companies primarily invest in fixed-income instruments, such as bonds, to make up the difference. As the post 9/11 stock market sank, investors fleeing the stock market flooded the bond market, depressing prices in the process. Shrinking returns on bond investments hindered the carriers' ability to close the profitability gap between premiums and claims.

- **Reinsurance**: The growing cost and difficulties that primary insurance companies experienced in obtaining reinsurance in the post 9/11 global market contributed significantly to the carriers' ability to assume risk. As reinsurance disappeared, insurance companies were forced to discontinue writing certain lines of business.

- **Availability and affordability**: As classes of business turned to the surplus lines market, they encountered a market that was both costly and discriminating in the risks it would cover.

This report will offer a snapshot of the liability insurance market for each of the four affected segments of the economy, including factors that are unique to each. The time period of this snapshot is the final quarter of 2004 and early 2005.

Liability insurance for contractors

In order to assess the current liability market for construction contractors, the OIC enlisted the help of numerous insurance associations and organizations. Specifically, the OIC was assisted by:

- The OIC's Agent Broker Advisory Committee
- Insurance industry associations
- Home builder associations
- Individual agents/brokers
- Managing general agents
- Insurers
- Associated state agencies

(A complete list of participants is located in Appendix B)

The method used to elicit information about this industry was twofold. The first was a 13-question survey mailed to 1,400 brokerage firms and agencies (Note: an agency or brokerage firm might represent multiple agents, but would only submit one response.). A response rate of 10 percent was achieved with 140 completed surveys returned for tabulation. A second phase involved the review of 30,000 surplus lines affidavits identifying agents and companies writing liability coverage for contractors in the surplus lines market. (The contractor survey and responses are located in Appendix C)

Survey highlights

- **Book of business**: More than 70 percent of the respondents said they had written 10 or fewer policies with an admitted insurer during the previous three months. Additionally, 25 percent of the respondents said contractors represented more than 20 percent of their business in the admitted market.

- **Surplus lines**: Nearly 18 percent of the respondents said they had written more than 20 policies in the surplus market during the previous three months. In addition, 25 percent of the respondents reported that contractors represented more than 20 percent of their business in the surplus lines market.

- **Market accessibility**: At least 75 percent of the respondents listed availability, affordability and past claims experience as the top three reasons they often were unable to place coverage for a contractor or a specialized artisan.

- **Trade categories**: Residential general contractors, condominium builders and apartment projects were the three categories where respondents had the most difficulty providing coverage.

- **Availability**: Nearly 83 percent of the respondents said it didn't appear that coverage was becoming more available in the construction liability market.

Points to consider
As the OIC launched this project, it quickly became apparent that collecting useful data from complex and dynamic insurance markets presents a challenge in and of itself. There are a number of factors contributing to this difficulty. They include the number and variety of insurance companies and the many differences in coverages, limitations, exclusions, restrictions, conditions and pricing. These differences make meaningful comparisons almost impossible. As a result, it is difficult to identify and define market-wide patterns.

Survey results were too varied within any one market to support a single, clear assessment of the liability markets beyond broad generalizations. This project represented a first step in determining the state of liability insurance in the Washington marketplace. A continuing program of market assessment would afford a more comprehensive picture of the market and assist in identifying market trends.

Evaluating the data
Generally speaking, the survey revealed that general liability insurance is becoming more available to most Washington contractors through the surplus lines market. Although the overall market is leveling out, it hasn't quite softened. The admitted market is very restrictive and appears to be reluctant to resume offering coverage except for certain artisan groups that were profitable prior to the hard market conditions.

Small residential contractors and general contractors building tract homes are able to find coverage, but affordability continues to cause hardships. The same holds true for contractors building multi-family structures, such as condominiums, townhouses, duplexes, triplexes and apartment buildings.

Affordability is still a major concern for some sub-classes of the construction industry. The primary consideration for this group is prior claims experience or gaps in coverage.

In addition, other specific sub-class groups are finding that they do not qualify for coverage through an admitted insurer and are forced to seek coverage through the surplus lines or non-regulated market, where affordability becomes a major concern. Businesses in this category include:

- So-called "envelope" subcontractors like roofers, siding companies, and window and door installers.
- Roofers who work in "torch-down" installations
- Contractors new to the state or contractors starting new ventures
- Contractors with less than four years of experience in their specific trade or artisan class.

One positive consequence of this development is that, as smaller contractors are forced out of the admitted market and into surplus lines coverage, that market has eased somewhat for this sub-class—but only because several surplus lines companies entered the market with their sights focused primarily on smaller-sized contractors.

Assisting the industry

Besides assessing the liability market for contractors, the OIC also was charged with assisting the industry where possible. Based on information gathered during the course of the project, the OIC was able to take a number of steps to assist consumers, insurers and agents and brokers. Here's what was accomplished.

One of the first things the OIC heard repeatedly from consumers as the project began was that many contractors had searched for months on end for liability insurance without success. Time and again, contractors said they didn't know where to turn for help or information.

As the survey progressed and the OIC began receiving completed questionnaires, it became apparent that, in addition to providing the basis for the proviso's assessment of the industry, the project was going to generate information that would be useful to contractors and insurers as well as agents and brokers.

Accordingly, the OIC designed and established a dedicated home page for liability insurance on the OIC's Web site. It is accessed directly from the OIC's home page (http://www.insurance.wa.gov). To access the information, go to the OIC home page, click on the "Liability Insurance" button on the right side of the page. A page called "Finding Liability Insurance" will appear, providing links to other liability pages.

The site includes background and historical information, commonly asked questions and answers, and a comprehensive listing of insurers the OIC has identified as offering coverage in the market. The listing, developed from the project's survey questionnaire, is broken down by insurers in the admitted market and surplus lines. In some cases, it also includes brokers and agents who may be able to assist consumers find specific coverages.

In addition, the Web site offers suggestions and directions for contacting brokers and agencies that might be of assistance. The information includes a direct online link to the OIC's liability market project manager, his telephone number and e-mail address.

The site is kept updated on a regular basis as conditions and circumstances in the market dictate. This service, however, will terminate with the expiration of the budget proviso.

Usage

For the six-month period ending in mid-March, the liability insurance pages on the OIC's Web site were accessed more than 20,000 times. Clearly, the general liability insurance market continues to generate considerable interest.

Adult family homes

There are approximately 2,100 commercial adult family homes in Washington. These facilities provide housing for up to six persons, usually senior citizens, in small, home-like settings. Most are individually owned by people who provide 24-hour care as well as other essential services. The state Department of Social and Health Services (DSHS) subsidizes residents in approximately 42 percent of the homes, while residents in the remaining 58 percent pay privately.

Because the operators of adult family homes were caught in the same hard insurance cycle that has plagued other segments of the liability market for the past three years, they were included within the scope of the OIC's liability market assessment project.

However, it must be pointed out that the liability market for adult family homes was significantly impacted in mid-2004, when DSHS placed a one-year moratorium on the agency's requirement that DSHS-regulated adult family homes carry general liability insurance. (See Appendix D for DSHS memo)

As a result of the insurance requirement being lifted, 95 percent of the adult family homes operating in the state remained uninsured or dropped their general liability insurance coverage.

Nevertheless, the OIC pursued this segment of the study for several reasons, including the opportunity to establish the state of the market prior to the moratorium, the fact that the moratorium is scheduled to expire July 15, 2005, and the fact that some adult family homes did want to obtain and maintain liability insurance coverage.

The OIC enlisted the help of the following organizations and resources:

- The OIC's Agent Broker Advisory Committee
- Insurance industry associations
- Associations representing adult family home operators
- Individual agents and brokers
- Managing general agents (acting as wholesalers in the retail market)
- Insurers
- Associated state agencies

(A complete list of participants is located in Appendix B)

The method used to elicit information from this industry was twofold. First, a 14-question survey was sent to adult family home proprietors through the industry's two industry associations: Adult Family Home Association of Washington and the Washington State Residential Care Council. The OIC project staff also called and e-mailed adult family home operators. Of the 2,100 homes queried in Washington, only 71 completed and returned surveys, a response rate of 3.4 percent. (The results of the complete survey are located in Appendix E)

Survey highlights

- **Market accessibility and affordability**: The survey disclosed that 76 percent of the respondents had tried and were unable to obtain coverage before the moratorium went into effect. Price was far and away the single most cited reason. Residents with special needs and availability of coverage were a distant second and third.

- **Classes of care**: 89 percent of the respondents said they had residents with special needs. (Dementia was the primary reason for special care.) This is significant because insurers prefer insuring adult family homes with residents who don't require special care, and they increase premiums accordingly for those operators who do. Thus, nearly 90 percent of the operators are paying higher premiums.

- **Gender**: 48 percent of the respondents reported that mixed gender in their group homes posed a problem in obtaining coverage. The survey indicated that carriers prefer insuring females, but will allow mixed gender homes if the males are older than 55.

Points to consider

The hard market for adult family homes continues to deteriorate, but the industry has not yet felt the direct impact because of the DSHS moratorium on the requirement for general liability insurance.

The survey indicated that, on average, most adult family home operators have been without liability coverage for nearly two years. When adult family home operators who terminated coverage begin looking for coverage again, they can expect to be assessed a surcharge due to the lapse in coverage, a standard underwriting practice. An endorsement also will be attached, clearly stating that the insurer will not defend claims stemming from an event that occurred during the period of lapsed coverage. Higher premiums will be the direct result.

This industry will face significant challenges finding and affording liability insurance if the DSHS moratorium is lifted and the insurance requirement is reinstated. The market is not prepared for what will amount to a rush to buy insurance. Both availability and affordability will be significant problems.

Few admitted companies currently offer liability insurance to adult family homes, and most will not write a homeowner policy for a residence with an on-site premises business. (Normally, homeowner policies have an on-premises exclusion for business activities.) Instead, insurance companies may offer a commercial fire policy with limited coverage at a higher cost.

Additionally, an already confusing market could be thrown into further chaos if financial institutions (as is their right) seek to protect their interests in mortgaged properties through forced placed coverage of properties whose owners don't have insurance.

This coverage insures only the financial institution's interests, limited to the remaining balance of the mortgage. No coverage is provided to the homeowner.

Evaluating the data

As previously noted, the liability market for adult family homes continues to shrink, especially in the admitted market where only a few insurers are writing limited liability coverage or are offering property coverage only.

Assisting the industry

The OIC incorporated a resource for adult family home operators as part of the OIC's liability insurance Web site. (For details, see the "Assisting the industry" section of the contractor section on page 8.)

Children’s welfare services providers

Providers of welfare services for children represent a variety of social and health care entities that assist children and their parents. These services range from adoption and foster care organizations to businesses that provide day care, substance abuse counseling and help for the developmentally disabled. In an effort to assess this market, the OIC identified 30 sub-classes of providers for the purpose of this study.

Children’s welfare services providers were included in the scope of this project because after years of readily available coverage and stable pricing, operators have seen significant increases in pricing. This trend sparked fears and concern about the potential for further substantial premium increases and coverage availability.

Highlights

Using information provided by the DSHS, the OIC distributed surveys to 2,037 providers. Participation was disappointing, despite a concerted follow-up effort that involved contacting an additional 1,411 providers. The overwhelming response was that very few providers had any interest in participating. In the end, a total of 31 providers completed the survey and returned it to the OIC, for a response rate of 2.2 percent. (The survey and responses are located in Appendix F)

The survey revealed that 62 percent of the respondents were able to find liability insurance without difficulty. Additionally, 95 percent of the respondents reported that they were covered by liability insurance.

At this time, while there is some concern within this market – and any number of the 30 different sub classes of providers could experience a problem in the future – coverage generally is available and within the financial means of most service providers.

Anecdotal information suggests that boarding homes are experiencing some challenges with availability and affordability. This also seems to be true for foster care parents’ training and recruitment service providers. In addition, there are indications that some groups, such as foster care and services for sexually aggressive youth and adoption services are being affected by an ever-contracting market.

Medical malpractice insurance

The medical malpractice segment of the liability insurance market in Washington is a classic example of a narrowly defined market where even slight adjustments and corrections can send shock waves reverberating across the landscape. There are approximately 19,000 licensed and active physicians and surgeons in Washington. Up until three years ago, the admitted segment of this market was primarily comprised of four insurers, including one that accounted for 70 percent of the business written in the state. When the insurer with the second-largest market share withdrew from the market in 2001, the effects were felt immediately.

Less than a year later, the state's largest insurer ceased accepting new business, a condition that lasted for 18 months. News media accounts of clinic closures and doctors leaving the state focused local attention on the problem. But Washington wasn't alone. The shortage of affordable medical malpractice insurance was being felt nationally. National statistics indicated that Washington was better off than 31 other states.

By the numbers

When Washington Casualty Insurance Co., previously the state's second-largest insurance carrier for medical malpractice insurance, announced in late 2001 that it would no longer offer coverage for physicians, 556 individuals and three hospitals were forced to find coverage almost immediately.

Washington Casualty's withdrawal from the market had the following serious implications for these doctors and hospitals beyond the challenge of simply finding coverage:

- Washington Casualty's withdrawal had the immediate effect of raising prices in the remaining market.
- Practicing physicians who sign up with a new insurer must purchase what is known as "tail coverage." Tail coverage means that physicians pay a premium based on the total length of coverage with their previous carrier. They may also purchase "prior acts" coverage from the new carrier. If a claim is filed dating back to the previous coverage, the new insurer must cover that claim. In other words, physicians need insurance to cover the risk of both past and future claims.
- The new insurer may rate the physician's risk higher than the previous insurer did, thus resulting in more expensive coverage.
- When a physician is denied coverage in the admitted market, the physician may have to seek coverage in the surplus lines market where it is easier to insure unique and individual risks. Surplus lines rates often are substantially higher than the admitted insurers.

Market Assistance Plan
Insurance Commissioner Mike Kreidler responded to this difficult situation by reaching out to carriers and asking for their voluntary assistance in creating a Market Assistance Plan (MAP) for medical malpractice insurance. This effort, a voluntary partnership between knowledgeable and willing medical liability insurers and local insurance agents and brokers, assisted physicians and other medical providers in finding coverage.

Writing to insurers in early 2002, Commissioner Kreidler said:

> *"An increasingly tight market for medical liability insurance is having a dramatic impact on the quality of health care throughout the country. Washington state is experiencing a growing disruption in this market, with the result that we are now witnessing physicians and clinics shutting their doors, unable to obtain medical liability insurance."*
>
> *"Every indicator we have seen suggests that this situation will continue to deteriorate with a market turnaround not yet in sight."*
>
> *"History suggests this tight market will not continue indefinitely, but history also suggests that considerable and painful disruption will occur until reasonable coverage again becomes available."*

The Washington Insurance Council volunteered to administer the program which is described as a voluntary industry marketing mechanism. It was intended to assist those physicians who would otherwise qualify for coverage if it were not for the hard market. The MAP was not intended to provide coverage for physicians with poor claims experience as the physicians could readily obtain coverage through a surplus lines carrier, albeit for surcharged premiums reflecting their respective experience.

Strictly voluntary
As its name suggests, participation in the MAP was voluntary. MAP administrators were unable to guarantee successful placement of every applicant. Nevertheless, the voluntary MAP was able to place 32 of 62 submissions. Those physicians unable to obtain coverage generally were denied for prior claims histories or gaps in coverage.

The success of the MAP was attributed in no small part to the commitment and cooperation of Washington's remaining three principal carriers in the admitted market.

In a recent progress report, the Chair of the Producer Committee operating the MAP has recommended that, in view of the improving market and the fact that only five submissions were received in all of 2004, the MAP be closed to further submissions and dissolved. On Jan. 21, 2005, Producer Committee Chair David Hargreaves wrote: (The complete letter is included in Appendix G)

> "The medical malpractice insurance marketplace in Washington has changed significantly since the establishment of the MAP, and coverage is much more readily available. Competition has returned and medical malpractice insurance carriers desire to write new physicians business. While underwriting discipline remains, it is not nearly as defensive and difficult as it was at the peak of the availability crises."

Based upon these factors, Commissioner Kreidler has determined that the Market Assistance Plan will cease operations on March 31, 2005.

Points to consider

As Hargreaves noted, the availability of medical liability insurance currently is not a significant issue for Washington's 19,000 physicians and medical providers.

Affordability is still problematic for several classes of physicians, including OB/GYNs, osteopaths, emergency room physicians, and for physicians and medical providers with significant claims or disciplinary history, breaks in coverage, and unique practice environments.

Some physicians and other medical providers have elected to self-insure or have created alternative risk-spreading mechanisms, such as Risk Retention Groups (RRGs).

Since mid-2002, the MAP successfully placed 32 of 62 physicians and medical providers who sought assistance.

The Producers Committee Chair and the major insurance company participants in the MAP have stated the market for medical liability insurance has sufficiently recovered to the extent that the MAP can safely be withdrawn.

Medical malpractice claims data call

Late last year, in an effort to better understand the medical malpractice liability market, the OIC undertook an ambitious data gathering effort to assess the health of the market and provide information to enable public policy based on fact rather than anecdotal evidence.

To that end, the OIC asked the top five medical malpractice insurers in the regulated market to supply claims information for a 10-year period ending June 30, 2004. (The five insurers represented 90 percent of the regulated market for physicians and surgeons.).This survey, or data call, sought information on compensation for injuries and related expenses in defending physicians. (Surplus lines carriers and self insurers are not regulated by the OIC, and did not participate in the survey).

The surveyed insurers closed 10,073 medical malpractice claims over the 10-year period. (Survey results are posted on the OIC's Web site and can be accessed at http://www.insurance.wa.gov/special/wic/MedMalDataCall.pdf)

The findings
The key findings included:

- The number of medical malpractice claims increased at an annual rate of 4.9 percent.
- The average amount of compensation per claim increased at an annual rate of 4.1 percent.
- Twenty-seven percent of the claims were closed with an indemnity (compensation) payment to a claimant.
- Sixty-one percent of the claims were closed with defense costs, such as attorney or expert witness fees.
- 3,248 claims were closed without any compensation payments or defense costs.
- Two percent of the total paid claims resulted in compensation payments of over $1 million.
- Claims with defense costs increased at an annual rate of 5.3 percent.
- Defense costs increased at an annual rate of 6.4 percent.
- Sixty-seven percent of the claims that incurred defense costs resulted in no compensation payment.
- Of the 10,073 claims, 50 were decided by a jury in favor of the plaintiff.

While this voluntary survey was eye-opening in many ways, it nevertheless painted only a partial picture of the market because there are no requirements for the reporting of claims or settlements for medical malpractice insurers.

There is no question that better reporting and data will enable more effective public policy. The OIC has asked the Legislature for mandatory reporting authority during the past two sessions. The OIC bill, SB 5785 is currently alive in the Legislature as of this report.

Conclusion – So, what's ahead?

Thankfully, the budget proviso didn't ask the OIC for predictions of what the future holds for the markets discussed in this report. Nevertheless, we can somewhat anticipate what lies ahead by looking back at what has historically transpired and recapping what we've learned in this exercise.

This is the third general liability insurance crisis that we've seen since the 1970s. For the third time in recent memory, events have conspired to disrupt the operations of Washington businesses and the lives of the people they serve. As noted in this report, many of the contributory factors are beyond the control of any one person or institution. Yet, there are steps that can be taken and options that are available to lessen the hardship and travail when the next hard-market cycle looms on the horizon.

We know that the current hard market is easing for many of the industries and businesses examined in this report. There are exceptions, and some specific segments of these markets may continue to deteriorate. The adult family home market, for instance, faces an uncertain future. There currently is not a market for the operators of these homes, but the effect of that reality has been mitigated by DSHS eliminating the requirement for state-funded homes to carry liability insurance.

If, or when, that requirement is reinstated, the ensuing confusion and chaos in this market is a foregone conclusion.

What can be done?

There is a solution, or at least a partial solution, to the problem of a collapsing insurance market. The technical term for this artificial market stabilizer is Joint Underwriting Association (JUA). This legislative solution provides an insurance market where the voluntary market can't – or won't.

Simply stated, a Joint Underwriting Association is a mandatory association of insurers and risk-retention groups that steps up to provide coverage when the private sector abandons the insurance marketplace. When a Joint Underwriting Association is in place, it must accept people who apply for coverage. The JUA issues policies, and members of the association share profits or losses that result from its operation.

The JUA is dissolved when hard-market conditions ease and the voluntary market returns.

The message here is that Washington businesses and citizens needn't be victimized when forces beyond their control have an adverse effect on their ability to obtain and afford liability insurance.

APPENDICES